

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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LUIS DUARTE,

Petitioner,

v.

WARDEN JEFFREY PUGH  
AND STANLEY CORRECTIONAL INST.,

Respondents.

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ORDER

Case No. 14-cv-340-jdp

Petitioner Luis Duarte is currently in custody of the Wisconsin Department of Corrections at the Stanley Correctional Institution. He has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging the calculation of his sentence. He has neither paid the \$5 filing fee nor requested leave to proceed without prepayment of the filing fee in this habeas proceeding. For this case to move forward, petitioner must pay the \$5 filing fee or submit a properly supported motion for leave to proceed without prepayment of the filing fee no later than June 17, 2014.

In the event that petitioner requests leave to proceed without prepayment of the filing fee, he must submit a trust fund account statement for the six-month period immediately preceding the filing of his habeas corpus petition. *See* 28 U.S.C. § 1915(a)(2); *Longbehn v. United States*, 169 F.3d 1082 (7th Cir. 1999). The federal *in forma pauperis* statute does not permit a court to waive a prisoner's entire obligation to pay filing fees, but it does allow a qualifying individual to proceed without prepaying some or all of the filing fee. To determine whether petitioner qualifies as indigent, any motion for leave to proceed without prepayment of the filing fee must include a certified copy of his inmate trust fund account statement (or

institutional equivalent) for the six-month period beginning approximately October 28, 2013, through the date of his petition, April 28, 2014.

If petitioner does not submit either the \$5 payment or a motion for leave to proceed without prepayment of the filing fee before June 17, 2014, the court will assume that he wishes to withdraw this action voluntarily and will dismiss the petition without further notice under Fed. R. Civ. P. 41(a).

#### ORDER

IT IS ORDERED that:

1. No later than June 17, 2014 Luis Duarte shall pay the \$5 filing fee or submit a properly supported motion for leave to proceed without prepayment of the filing fee together with a certified copy of his inmate trust fund account statement for the six-month period from the date of the habeas petition (April 28, 2014 through at least October 28, 2013).

3. Petitioner is advised that, if he fails to comply as directed or show cause for his failure to do so, the court will assume that he does not wish to proceed and this case will be dismissed without further notice pursuant to Fed. R. Civ. P. 41(a).

Entered this 21st day of May, 2014.

BY THE COURT:

/s/  
PETER OPPENEER  
Magistrate Judge